Supreme Court, U.S.
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No. 98-1581

IN THE

Supreme Court of the United States

CHARLES JONES,

Petitioner,

v.

DONALD J. TRUMP, MARLA MAPLES TRUMP, THE PLAZA HOTEL, also known as PLAZA OPERATING PARTNERS, LTD., ROBERT MORGANTHAU, individually and as District Attorney, County of New York, DOREEN KLEIN, individually and as an Assistant District Attorney for the County of New York, THE TRUMP ORGANIZATION, JEANINE PIRRO, District Attorney, individually and as District Attorney, County of Westchester, ALBERT PIRRO, MATTHEW CALAMARI, DOMENIC PEZZO, JANIE ELDER, JOHN BANER, Individually and as a New York City Police Officer, ROBERT GIANETTA, Individually and as a New York City Police Officer, DEL LARROCA, FREDERICK H. COHN, EXECUTIVE PLAZA CONDOMINIUM, CDL HOTELS, MICHAEL BERGER, RICHARD FIELDS, CITY OF NEW YORK, ANN OGLETREE, BRIAN HIGGINS, Individually and as a New York City Police Officer, and WILLIAM LYNCH, Individually and as a New York City Police Officer,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit

BRIEF IN OPPOSITION FOR THE TRUMP RESPONDENTS

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COUNTER-STATEMENT OF THE QUESTION PRESENTED

Should the U.S. Supreme Court review a unanimous affirmance by the Court of Appeals for the Second Circuit of the District Court's well-reasoned dismissal, pursuant to Rule 12(b)(6) and Rule 8 of the Federal Rules of Civil Procedure, of facially insufficient, prolix, convoluted, and scandalous complaints filed by a *pro se* litigant in two actions primarily asserting federal civil rights violations, allegedly stemming from two criminal prosecutions, one of which is still on-going?

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BRIEF IN OPPOSITION

This brief is respectfully submitted on behalf of Respondents Donald J. Trump, Marla Maples Trump, Janie Elder, Richard Fields, Ann Ogletree, Domenic Pezzo, Matthew Calamari, the Trump Organization, and their counsel below, Michael G. Berger, Esq. and Jay Goldberg, Esq. (collectively, the "Trump Parties"), in opposition to the petition for a writ of certiorari by Petitioner Charles Jones ("Jones") to review the Opinion and Order of the United States Court of Appeals for the Second Circuit, dated September 21, 1998.

We submit there is no basis for this Court to review said Opinion and Order, which correctly affirmed the District Court's Opinion and Order, dated May 22, 1997, dismissing Jones' facially insufficient, prolix, convoluted and scandalous complaints, with prejudice, and the subsequent Opinion and Order of the same court, dated July 11, 1997, reaffirming the dismissal upon reconsideration.

FEDERAL RULES INVOLVED

Rules 8 and 12(b)(6) of the Federal Rules of Civil Procedure (reprinted in the appendix hereto).

STATEMENT OF THE CASE

Nature of the Case

Jones' claims against the Trump Parties seem to allege violations of 42 U.S.C. § 1983 and 18 U.S.C. § 1962; as well as state law, *i.e.*, alleged malicious abuse of process, malicious prosecution (which he also calls "retaliatory prosecution"), fraud, extortion, conspiracy, defamation, breach of contract, intentional infliction of emotional distress, trespass, conversion, theft, invasion of privacy and harassment.

The claims stem primarily from events surrounding two criminal prosecutions of Jones, commencing in 1992, involving criminal acts against Marla Maples Trump.

The first action ("Jones I") filed in June 1995, deals mainly with events underlying the first criminal prosecution of Jones for burglary, criminal possession of stolen property, and criminal possession of a weapon, arising from Jones' unlawful entry into Mrs. Trump's residence and unauthorized taking of her personal possessions. This criminal prosecution is still on-going.

The second action ("Jones II"), filed in September 1996, involves a subsequent criminal prosecution of Jones for aggravated harassment arising from Jones' alleged use of facsimile transmissions to distribute unsolicited sexually explicit photographs, purporting to depict Mrs. Trump, to various locations, including but not limited to The Plaza Hotel in New York City.

To the extent the Trump Parties can understand Jones' rambling and confusing amended complaints, he appears to be alleging some sort of global, overarching conspiracy between the Trump Parties, the New York City Police Department and the offices of the District Attorneys of New York and Westchester counties.

Jones variously asserts that these parties assaulted him, falsely imprisoned him, and tried to "coerce" him to return papers, videos and photographs concerning the Trumps which he contends he did not have (but, nonetheless, purports to describe in great detail). Jones seems to claim that he was being coerced to sign a nondisclosure agreement regarding the Trumps, and to relinquish rights under a purported oral "contract" wherein he claims Mrs. Trump allegedly

promised Jones a percentage of monies obtained through her marriage.

Jones' conspiracy theory is also intermixed with equally frivolous claims of defamation of character, intentional infliction of emotional distress and harassment.

These claims had previously been asserted and and conclusively decided against Jones.

Jones first tried to show a conspiracy between the Trump Parties and the police in a lengthy pretrial suppression hearing in People v. Jones (Supreme Court, N.Y. Co.; Indictment No. 3108/93) (the "Burglary Prosecution").

After an exhaustive evidentiary hearing to determine the validity of a pre-arrest search of Jones' office, the New York Supreme Court squarely found that there was no conspiracy between the Trump Parties and the police. [See January 19, 1994 Opinion and Order of Hon. Richard T. Andrias, annexed as Exhibit A to Berger Affid. in Support of Trump Parties motion dismiss, Docket 11 (96 Civ. 2995)[1].]

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[1] All of the Trump Parties' submissions below were (continued...)

Jones tried once again to prove his claims of a giant police-civilian conspiracy, false imprisonment, assault, defamation and intentional infliction of emotional distress in Jones v. The Plaza Hotel, The Trump Organization, Barry Cregan, Domenic Pezzo, Matthew Calamari, Ann Ogletree, Janie Elder, Robert Gianetta, Brian Higgins, William Lynch, John Doe, the City of New York and Donald J. Trump, Index No. 117696/93 (Sup. Ct. N.Y. Co.) (the "State Court Suit"). The claims of false imprisonment, assault, and a giant police-civilian § 1983 conspiracy were dismissed by the state court based on the collateral estoppel effect of the prior Opinion and Order of Hon. Andrias denying Jones' motion to suppress in the Burglary Prosecution. [See Berger Aff., Ex. B (Order and Decision of Justice Louis B. York, S.C.J., dated September 30, 1996, at p. 2), Docket 11 (96 Civ. 2995).]

The remaining defamation and intentional infliction of emotional distress claims were likewise

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[1](...continued)
docketed in both 96 Civ. 2995 and 96 Civ. 6927, but for purposes of expediency, record references will be to the docket entries made in 96 Civ. 2995.

dismissed in a Final Order and Judgment of Justice Louis B. York, S.C.J., dated September 30, 1997, which was affirmed by the New York Appellate Division, First Department on April 7, 1998.[2]

Yet, Jones continues to press his vexatious claims of a giant civil rights conspiracy between the Trump Parties, police and prosecutors. We submit that the District Court correctly found that Jones' present attempts to convert his failed § 1983 claims into RICO claims, malicious prosecution claims and other claims stemming from the supposed "conspiracy," as well as his defamation claims, are all precluded by the doctrines of *res judicata* and collateral estoppel.

Jones' claims for malicious prosecution are barred for the additional reason that there has been no ruling in any prosecution against Jones which indicates Jones' innocence of the criminal charges brought against him. In fact, to the extent the merits have been addressed, they have proven Jones' guilt.

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[2] Because this Final Order and Judgement in the State Court Suit was issued after the District Court's Orders, it is not contained in the record on appeal.

In short, the entirety of Jones' claims -- to the extent they can be understood -- are purely a continuing course of perverse and malicious harassment against persons and entities he imagines are persecuting him. Jones is abusing judicial processes to pursue these baseless claims as a personal vendetta. This duplicative litigation has no legal or factual basis.

REASONS FOR DENYING THE WRIT

It is patently clear, that this is not a matter that ought to be before this Court.

The decision below was plainly a correct application of settled law relating to the sufficiency of pleadings. [For the Court's reference, a copy of the brief filed by the Trump Parties in the Court of Appeals for the Second Circuit is annexed hereto.]

This Court need only review the pleadings and the protracted history of abusive litigation by Jones to determine that the court below committed no abuse of discretion in dismissing the amended complaints, with prejudice. In so ruling, the courts below in no way denied Jones of due process. He has had ample opportunity to present his claims numerous times. However, the defendants, too, have a right to not be subjected to frivolous and repetitive litigation.

There is no important federal question implicated in these actions, and the Second Circuit's order is not in conflict with the decision of this Court or any other United States court of appeals on the same matter.

Nor has any of the courts below departed from the accepted and usual course of judicial proceedings.

CONCLUSION

WHEREFORE, based on the foregoing, the briefs filed with the Court of Appeals for the Second Circuit, and the additional discussion in all the other respondent opposition papers, the Trump Parties respectfully submit that Jones' petition should be denied.

Dated: New York, New York
April 30, 1999

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